

- Sec.
1095. Registration on principal register not precluded.
1096. Registration on supplemental register not used to stop importations.

SUBCHAPTER III—GENERAL PROVISIONS

1111. Notice of registration; display with mark; recovery of profits and damages in infringement suit.
1112. Classification of goods and services; registration in plurality of classes.
1113. Fees.
 (a) Applications; services; materials.
 (b) Waiver; Indian products.
1114. Remedies; infringement; innocent infringement by printers and publishers.
1115. Registration on principal register as evidence of exclusive right to use mark; defenses.
 (a) Evidentiary value; defenses.
 (b) Incontestability; defenses.
1116. Injunctive relief.
 (a) Jurisdiction; service.
 (b) Transfer of certified copies of court papers.
 (c) Notice to Director.
 (d) Civil actions arising out of use of counterfeit marks.
1117. Recovery for violation of rights.
 (a) Profits; damages and costs; attorney fees.
 (b) Treble damages for use of counterfeit mark.
 (c) Statutory damages for use of counterfeit marks.
 (d) Statutory damages for violation of section 1125(d)(1).
 (e) Rebuttable presumption of willful violation.
1118. Destruction of infringing articles.
1119. Power of court over registration.
1120. Civil liability for false or fraudulent registration.
1121. Jurisdiction of Federal courts; State and local requirements that registered trademarks be altered or displayed differently; prohibition.
1121a. Transferred.
1122. Liability of United States and States, and instrumentalities and officials thereof.
 (a) Waiver of sovereign immunity by the United States.
 (b) Waiver of sovereign immunity by States.
 (c) Remedies.
1123. Rules and regulations for conduct of proceedings in Patent and Trademark Office.
1124. Importation of goods bearing infringing marks or names forbidden.
1125. False designations of origin, false descriptions, and dilution forbidden.
 (a) Civil action.
 (b) Importation.
 (c) Remedies for dilution of famous marks.
 (d) Cyberpiracy prevention.
1126. International conventions.
 (a) Register of marks communicated by international bureaus.
 (b) Benefits of section to persons whose country of origin is party to convention or treaty.
 (c) Prior registration in country of origin; country of origin defined.
 (d) Right of priority.
 (e) Registration on principal or supplemental register; copy of foreign registration.
 (f) Domestic registration independent of foreign registration.

- Sec.
 (g) Trade or commercial names of foreign nationals protected without registration.
 (h) Protection of foreign nationals against unfair competition.
 (i) Citizens or residents of United States entitled to benefits of section.
1127. Construction and definitions; intent of chapter.
1128. National Intellectual Property Law Enforcement Coordination Council.
 (a) Establishment.
 (b) Duties.
 (c) Consultation required.
 (d) Non-derogation.
 (e) Report.
 (f) Funding.
1129. Cyberpiracy protections for individuals.

SUBCHAPTER IV—THE MADRID PROTOCOL

1141. Definitions.
1141a. International applications based on United States applications or registrations.
 (a) In general.
 (b) Qualified owners.
1141b. Certification of the international application.
 (a) Certification procedure.
 (b) Transmittal.
1141c. Restriction, abandonment, cancellation, or expiration of a basic application or basic registration.
1141d. Request for extension of protection subsequent to international registration.
1141e. Extension of protection of an international registration to the United States under the Madrid Protocol.
 (a) In general.
 (b) If the United States is office of origin.
1141f. Effect of filing a request for extension of protection of an international registration to the United States.
 (a) Requirement for request for extension of protection.
 (b) Effect of proper filing.
1141g. Right of priority for request for extension of protection to the United States.
1141h. Examination of and opposition to request for extension of protection; notification of refusal.
 (a) Examination and opposition.
 (b) Notification of refusal.
 (c) Notice to International Bureau.
 (d) Designation of agent for service of process.
1141i. Effect of extension of protection.
 (a) Issuance of extension of protection.
 (b) Effect of extension of protection.
1141j. Dependence of extension of protection to the United States on the underlying international registration.
 (a) Effect of cancellation of international registration.
 (b) Effect of failure to renew international registration.
 (c) Transformation of an extension of protection into a United States application.
1141k. Affidavits and fees.
 (a) Required affidavits and fees.
 (b) Contents of affidavit.
 (c) Notification.
 (d) Service of notice or process.
1141l. Assignment of an extension of protection.
1141m. Incontestability.
1141n. Rights of extension of protection.

EFFECTIVE DATE

This chapter, act July 5, 1946, ch. 540, 60 Stat. 427, became effective one year from July 5, 1946, and repealed

chapter 3 of this title as of that date. See notes under section 1051 of this title.

PRIOR LAWS

The Trade-Mark Act of 1905 superseded the Trade-Mark Act of Mar. 3, 1881, ch. 138, 21 Stat. 502, entitled "An Act to authorize the registration of trade-marks and protect the same," and also act Aug. 5, 1882, ch. 393, 22 Stat. 298, entitled "An Act relating to the registration of trade marks". Former section 109 of this title repealed all inconsistent acts and parts of acts, except so far as they might apply to certificates of registration issued under the Trade-Mark Act of Mar. 3, 1881, ch. 138, and act Aug. 5, 1882, ch. 393.

SUBCHAPTER I—THE PRINCIPAL REGISTER

§ 1051. Application for registration; verification

(a) Application for use of trademark

(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Director, and such number of specimens or facsimiles of the mark as used as may be required by the Director.

(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

(3) The statement shall be verified by the applicant and specify that—

(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

(C) the mark is in use in commerce; and

(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

(i) state exceptions to the claim of exclusive use; and

(ii) shall¹ specify, to the extent of the verifier's knowledge—

(I) any concurrent use by others;

(II) the goods on or in connection with which and the areas in which each concurrent use exists;

(III) the periods of each use; and

(IV) the goods and area for which the applicant desires registration.

(4) The applicant shall comply with such rules or regulations as may be prescribed by the Director. The Director shall promulgate rules pre-

scribing the requirements for the application and for obtaining a filing date herein.

(b) Application for bona fide intention to use trademark

(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Director.

(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

(3) The statement shall be verified by the applicant and specify—

(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

(B) the applicant's bona fide intention to use the mark in commerce;

(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 1126 of this title, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

(4) The applicant shall comply with such rules or regulations as may be prescribed by the Director. The Director shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.

(c) Amendment of application under subsection (b) to conform to requirements of subsection (a)

At any time during examination of an application filed under subsection (b) of this section, an applicant who has made use of the mark in commerce may claim the benefits of such use for purposes of this chapter, by amending his or her application to bring it into conformity with the requirements of subsection (a) of this section.

(d) Verified statement that trademark is used in commerce

(1) Within six months after the date on which the notice of allowance with respect to a mark is issued under section 1063(b)(2) of this title to an applicant under subsection (b) of this section, the applicant shall file in the Patent and Trademark Office, together with such number of specimens or facsimiles of the mark as used in commerce as may be required by the Director and payment of the prescribed fee, a verified statement that the mark is in use in commerce

¹ So in original. The word "shall" probably should not appear.